Canada

Registered Charities Newsletter

No. 8 - Spring 1999

For information on the following issues, please call our Client Assistance Section at 954-0410 for local calls, or at 1-800-267-2384 for toll-free long distance calls. The FAX number is (613) 954-8037. You can also write to us at the **Charities Division, Revenue Canada, Ottawa, Ontario, K1A 0L5**.

Increased transparency

Did you know that the *Income Tax Act* now allows more information on Canadian charities to be made available to the public? The Government's goal is to promote charitable giving in Canada, and to enhance transparency and accountability in charities, and therefore public trust and the donor support that goes with it. Providing more information serves to maintain the confidence of donors and the public in general, and allows Canadian taxpayers to see for themselves the contribution that charities make to Canadian society.

The following information is now publicly available:

- a charity's governing documents (i.e., the letters patent, articles of incorporation, trust deed, constitution);
- the application form (completed by a charity when it sought registration or re-registration);
- the notification of registration or re-registration (a letter sent by the Department to notify a charity of its registered status);
- the letter the Department sends to a charity that has been de-registered, explaining the reasons for the Department's action; and
- the names of the persons who are or have been directors/trustees of the charity, and the periods during which they served as directors/trustees.

The telephone numbers to request public information on charities are (819) 994-4567 for local Ottawa calls, and 1-877-202-5111 for toll free long distance calls.

Changes in departmental policy on applications for re-registration

The Department is committed to ensuring that registered charities file their annual Registered Charity Information Return (Form T3010) on time. To encourage charities to take their responsibility for filing public information on time, and avoid the costly process of revocation and re-registration, we anticipate that as of spring 1999, a fee of $225 will be charged for each application for re-registration. Because we are concerned with charities that go on issuing tax receipts after they are revoked, we also propose to implement a new policy whereby a charity's re-registration will not be backdated to the date that it lost its registered status. Please note that we do not automatically re-register a charity that has lost its registered status. A charity must file a new application to show that it meets the current registration requirements.

Further questions on golf tournaments

The Summer 1998 Newsletter answered some questions about golf tournaments held by or for charities. Here are more questions we've received on this topic.

1. How do we calculate the gift (or receiptable) portion of the ticket price?
First, the charity needs to figure out the fair market value of what it is offering to the players-that is, how much a player would normally have to pay for a round of golf, a golf cart, other transportation, refreshments, and anything else that is included in the ticket price. Then, the charity needs to subtract this amount from the ticket price. The difference is the amount that we consider to be a gift for which the charity can issue a tax receipt. The charity should be able to calculate this amount before the tournament is held. The calculation is not based on the charity's actual costs, but on the fair market value of what it is offering. Even if the refreshments or other supplies are donated, the charity needs to deduct their fair market value from the ticket price.

2. If we can give "nominal" prizes, is the determination of what is "nominal" based on the ticket price or the gift amount?
As we explained in the Summer 1998 Newsletter, the charity can issue tax receipts only for events that do not offer any prizes or that offer prizes with only a nominal value. We consider "nominal" to mean 10% of the gift made to the charity (that is, the receiptable portion of the ticket) or $50, whichever is the lower amount. For example, if the charity sells tickets at $250 and issues tax receipts for $150 of the ticket price, then the most expensive prize the charity can offer any player will be worth $15.

3. Can we give all the participants a golf shirt as part of the entry fee ("tee-box gift")?
No, unless the value of the non-consumable goods is "nominal" as mentioned above. As we explained in the Summer 1998 Newsletter, the definition of "like events"-those for which we allow a single payment which combines an entry fee with a charitable donation-requires that the charity offers only consumable goods and services on the occasion. There is no restriction on the consumable goods, such as refreshments, that the charity gives away to the golfers. However, the charity needs to include the fair market value of these consumables in its deduction from the ticket price to determine the amount of the gift.

4. We hold a hole-in-one contest with a big prize before the actual golf tournament begins. People pay $5 to enter, and these tickets are sold entirely separately from the main event. We advertise that golfers can participate in the hole-in-one contest, in the main tournament, or in both events. We do not issue tax receipts for the hole-in-one event, but we do for the main event. Is this all right?
Yes. The charity is holding two separate events. This is made clear both by the advertising and by holding the hole-in-one contest apart from the 18 holes of regular play. The fact that the charity is offering a substantial prize in the first event does not prevent it from issuing tax receipts for the second event.

5. A business buys a block of tickets. Should we issue the tax receipt in the name of the golfers who use the tickets or in the name of the business?
The charity should always issue a receipt in the name of whoever buys the tickets-in this case, the business. The business could also collect the amounts from the golfers and provide the charity with one cheque and the list of donors-in this case, the charity could issue a receipt in the name of each golfer.

6. Our tournament is pretty famous, and we receive a lot of high-quality donated prizes. Without these prizes, we wouldn't be able to get people to attend. What should we do?
There is no reason to change. The charity simply does not issue a tax receipt for any portion of the ticket price. This would be a tournament which attracts participants at least partly on the basis of its prizes. Another kind of tournament is the one that does not offer significant prizes. People agree to pay more than they would normally pay for a round of golf on the understanding that the extra amount will go to a good cause. These are tournaments for which charities can issue tax receipts.

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Directed donations

Paragraphs 15(a), (g), and more particularly (f) of Interpretation Bulletin IT-110R3, *Gifts and Official Donation Receipts*, clearly state that a charity may not give a tax receipt to donors who ask that their gift benefit a specific person or family, or to a particular program if the donor, or anyone not dealing with the donor at arm's length, receives a benefit. Allowing otherwise would encourage certain existing practices that are clearly outside the intent of the law. Charities should be careful in accepting donations, when a donor asks that the gift be applied to a specific person or family, or when the gift involves providing an advantage specifically back to the donor. The basic rule is that a gift should not result in a specific benefit either to the donor or to a person in whom the donor has a purely private or personal interest.

There are cases where a gift to a charity for a named beneficiary can be valid. These cases are usually exceptions to the above rule and depend on a number of facts. This is of particular interest to poverty-relief and medical-treatment charities as well as certain religious charities, notably with regard to fund-raising for missionary activities. At the initiative of the Canadian Bar Association of Ontario, the Department is currently consulting with leading organizations in the charitable sector, to clarify the above policy, to state the conditions under which it can be extended, and to ensure that it will be applied in a reasonable and impartial way.

Issuing receipts for gifts of art

The Department is aware that some charities are still receiving gifts of art and issuing receipts to the donor for an amount well above the fair market value of the art. Charities knowingly involved in such schemes are at risk of losing their charitable status on the grounds that they have issued receipts that contain false information. Other charities have been misled by appraisals in the possession of the donor which have led them to issue a tax receipt for an amount far greater than the amount they can obtain by selling the art work. Issuing receipts for an inflated amount may have an impact on charities because they will have problems meeting their disbursement quota the following year.

We advise charities to rely on common sense and to make sure they get an independent appraisal of the artwork by a competent professional. An independent appraiser is a person who is not financially connected to the donor, the charity, the art dealer, or the artist. For gifts worth less than $1,000, a qualified employee of the charity can appraise the value of the gift.

Gifts of units in a hedge fund

Investment advisers have asked charities to accept gifts of units in a hedge fund, and issue tax receipts for them. Hedge funds are a specialized kind of investment. They are usually addressed to sophisticated investors and are privately offered, and thus may escape the regulatory controls placed on investments sold to the public, such as mutual funds.

The *Income Tax Act*allows charities to accept a gift like an interest in a hedge fund, but we suggest that an organization consider provincial law, its own governing documents, and potential liabilities before proceeding. If it does decide to go ahead, it will need independent, expert appraisals (with access to all relevant facts) to determine the fair market value of the fund units when the gift is made. Any tax receipt issued should carry the name and address of the appraiser.

Although we do not have all the necessary information, one investment proposal we have recently seen appears to have suggested a valuation to charities and potential investors, that is inflated in relation to the underlying value of the units.

The Department intends to closely examine the valuation of these gifts.

Membership fees

Can a charity issue an official donation receipt for membership fees if such payments allow the member to receive any material benefit?
A charity may issue an official donation receipt where the membership fee simply entitles the member to vote at meetings, or receive financial statements and reports on a charity's activities. A receipt can also be issued where the member receives only items of nominal value. However, a charity *cannot*issue an official donation receipt for a membership fee if any portion of the fee allows the member to receive material benefits such as discounts to a charity s programs, free copies of a magazine a charity sells to the public, reduced rates for seminars, performances and conferences, or the use of a facility without paying the regular fee.

Official donation receipts - Quebec donors

The Department allows a registered charity to issue two (2) copies of an official tax receipt to a donor, provided that both copies bear the same serial number. Quebec donors need two copies: one for their federal return, and the other for their provincial return. However, charities outside Quebec do not have to issue two copies of receipts. For example, a Quebec resident making a donation to a Saskatchewan charity can attach a photocopy of the charity's receipt to his or her provincial return.

This newsletter forms part of a series. Keep this for future reference. All previous newsletters can be viewed on our Website: **/charities** .

Basic GST/HST Information for Charities

For GST/HST Information please contact your nearest Revenue Canada Tax Services Offices. To contact a tax services office, see the telephone listings for "Revenue Canada" in the Government of Canada section of the telephone book.

The following is basic information on how charities are affected by the 7 percent Goods and Services Tax (GST) and, in Nova Scotia, New Brunswick and Newfoundland, the 15 percent Harmonized Sales Tax (HST). Most of this information does not apply to charities that are universities, hospitals, public colleges, or school authorities. More detailed information is outlined in the guide*GST/HST Information for Charities*.

We refer to providing services, or selling or renting goods and other property, as making "supplies". Supplies may be taxable or exempt. Most supplies made by a charity are GST/HST exempt. Taxable supplies are usually those of a commercial nature such as sales of goods (except for used or donated goods), adult recreational activities and admissions to theatres and other places of amusement. Even these supplies will be exempt if, for example, the amount the charity charges for a good or service is no more than its direct cost, or if the charity makes the supply at an occasional fundraising event.

If your charity is not registered for the GST

As a charity, you are not required to register for the GST/HST if you are a "small supplier". You are a small supplier if your taxable supplies do not exceed $50,000 annually, or if your total revenues from all sources (including donations) do not exceed $250,000 in either of your preceding two fiscal years. As a non-registrant, you do not charge the GST/HST, even on your taxable supplies, and you are entitled to a 50 percent rebate of the GST/HST paid on all purchases, with a few minor exceptions. You claim your rebate by filing a semi-annual claim form.

If your charity is a GST/HST registrant

If you are a small supplier and make some taxable supplies, you may voluntarily register for the GST/HST. However, if you are above both of the small supplier thresholds noted above, you are required to register. As a GST/HST registrant, you are required to charge the GST/HST on your taxable supplies unless they are "zero rated", such as basic groceries. Also, you must file an annual GST/HST return. However, you can elect to file it monthly or quarterly.

Since 1997, charities have a new method of calculating the GST/HST that they owe to, or the refunds they can expect from, Revenue Canada. Most charities are required to use this method, which is explained in detail in the guide*GST/HST Information for Charities.*Some charities, such as those that have substantial taxable supplies, may elect not to use the new method and instead use normal methods of accounting for the tax.

Other Provisions

Special provisions apply to the treatment of real property, imports, exports, book rebates, allowances and reimbursements, sponsorships, government grants, and special rules concerning the HST.